

What is something, which applies - איזהו דבר שנוהג באיש ואינו נוהג באשה - to a man and does not apply to a woman

Overview

The **ברייטא** teaches us that the **פסוק** of¹ **איש אל אחוזתו וגו'** cannot be referring either to a **מוכר עצמו** or to a **מכרוהו ב"ד** (for we know this already from other **פסוקים**), rather it refers to a **נרצע**, that he is freed by **יובל**. **רבי** **שילא** explained² that **נרצע** is alluded to in the **פסוק**, since it says '**איש**', and only a **איש** is **נרצע**, but not an **אשה**. Our **תוספות** explains why it cannot be referring to something else

asks:

ואם תאמר ואימא זו מכרוהו בית דין דלא שייך באשה דכתיב (שמות כב) בגניבתו ולא בגניבתה -
And if you will say; and let us say that this מכרוהו ב"ד" of ושבתם refers to a
מכרוהו בי"ד" which is not applicable by a woman, only by a man,⁴ for it is written, ‘and he will
be sold for his theft’⁵, but not for her theft.⁶

תוספות answers:

ויש לומר דמכל מקום שם מכירה נוהגת באשה⁷ אבל שם רציעה אינו נוהג באשה -
And one can say; that nonetheless the ‘name’, ‘selling’ applies also by a woman,
however the name נרצע does not apply at all by a woman. Therefore it is preferable
 to establish the פסוק of ושבתם איש to a נרצע, rather than to a מכירה ב"ד.

[asks: תוספות]

[ותימה דכיון דקרא לא משתמע אלא בנרצע –

And it is astounding, that since the פסוק only indicates ורצע, as חוספות just explained -

¹ ויקרא (בהר) כב, י

² There are two (extra) פסוקים that discuss יציאה ביובל (besides the פסוק in כהב, [בהר] ויקרא which states [regarding a בהר] that שבט אל משפחתו ושבו אל משפחתם; one is in פסוק מא (עד שנת היובל יעבד עמך) [מוכר עצמו] and the other is our פסוק in בהר ושבתם איש אל אחוזתו). The גמרא states that refers to a מכרוהו ב"ז and the פסוק of ושבתם refers to a נרצע (and not the opposite), because of the explanation of רבא בר שיילא.

³ (משפטים) פסוק ב

⁴ See (end of משנה) in סוטה כג.א and the גמרא there on כג.ב (at the very end of the פרק).

⁵ If a man steals and cannot pay, he is sold as a slave and the money paid by the purchaser is given to the victim of the crime. This is referred to as מכרוהו ב"ד. However a woman in the same case is never sold as a slave by ב"ד.

⁶ Presumably we will derive that *יצא ביוכל* is *נרצע* from the *פסוק* of *משפחתו* (see footnote # 2.) See ‘Thinking it over’.

⁷ A woman can also be sold as a slave (by her father) similar to a מכרהו ב"ד. The slight difference that this one is sold by ב"ד, and the other is sold by her father is insufficient to categorize this as something which applies to a man and not to a woman, since both can be sold.

למאי איצטריך למימר⁸ אי במכרוהו בית דין הרי כבר אמור. תוספות ישנים:

Why was it necessary for ר"א ב"י to say that the פסוק must be discussing a נרצע, for it cannot be discussing מכרוהו בי"ד since that was already spoken about in another פסוק? The aforementioned question [in brackets] is an addendum of תוספות ישנים.

Summary

The concept of נרצע applies more readily to נדה באיש ולא באשה, and not to מכרוהו בי"ד, since a woman can also be sold as a slave. [The ברייתא should have stated directly that the פסוק of ושבתי אִישׁ refers to a נרצע (since this is נדה only באיש), without resorting to eliminate the other types of עבדים.]

Thinking it over

What difference does it make from which פסוקים we derive⁹ by a מכרוהו by יציאה ביוכל or ושבתי אִישׁ (whether it is from משפחתו or ושב אל אחוזתו or ושב אל משפחתו)?

⁸ It appears from the ברייתא that the (only) reason we establish this פסוק of ושבתי אִישׁ by a נרצע, is because there is no other option; all the other slaves (whether מוכר עצמו or מכרוהו בי"ד) were already spoken for. However the ברייתא did not have to come to this conclusion only by a process of elimination; the ברייתא could have said straight out that it is discussing a נרצע, since it says אִישׁ, and a נרצע is the only עבד which is נדה באיש ולא באשה.

⁹ See footnote # 6.